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10/759,679	01/19/2004	Robert G. Arsenault	PD-980208A	8613

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EXAMINER

CHIN, RICKY

ART UNIT	PAPER NUMBER
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2423

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/759,679	Applicant(s) ARSENAULT ET AL.	
	Examiner RICKY CHIN	Art Unit 2423	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22, 44-46 and 48-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-22, 44-46 and 48-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Affidavit or Declaration Under 37 CFR 1.131

1. The declaration filed on 3/9/10 under 37 CFR 1.131 has been considered but is ineffective to overcome the Sie reference. The declaration is considered ineffective for the following reasons:

a) The declaration is not signed by all of the inventors/applicants or other qualified party. See MPEP 715.04.

b) The draft specification (before 11/3/99) is not earlier than the effective date of the Sie reference, which is 10/13/99.

c) Even if the conception is shown, the applicant is reminded to address diligence during the critical period to reduction to practice.

Response to Arguments

2. Applicant arguments filed 3/9/10 have been fully considered but are moot in view of the relied upon affidavit and declaration under 37 CFR 1.131 being ineffective as stated above. Hence, the rejections are maintained.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

4. Claims 20-21, 44-45, 48, and 50-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Sie, US 7,240,359.

Regarding claim 20, Sie teaches of a method of storing a video program in response to a user demand wherein the video program is repeatedly transmitted on one of a plurality of channels (See Figs. 9A and 10A; and col.16 lines 14-43 which discloses storing a repeatedly transmitted program on one of a plurality of channels according to a user command/selection), each repeated transmission separated in time from a preceding transmission of the video program by a retransmission interval and being transmitted on a different channel than the previous transmission (See Fig.9A and col. 16 lines 28-43), the method comprising the steps of:

selecting at least one of a plurality of video programs (See col.6 lines 20-25

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which discloses selecting a channel for display; and col.16 lines 14-25 which discloses an NVOD program); and

receiving a plurality of time segments of the selected video program in parallel, wherein each of the time segments is received on a different one of the channels (See col. 16 lines 35-43 which discloses of retrieving the entire NVOD program from a number of digital channels simultaneously such that if the start times were staggered by fifteen minutes, it would only take fifteen minutes to retrieve the remainder of the NVOD program. Thus, a plurality of time segments is retrieved in parallel on a different one of the channels).

Regarding claim 21, Sie teaches all of the claim limitations of the method of Claim 20, further he teaches of wherein the time segments of the selected video program are staggered in time by the retransmission interval (See col.16 lines 35-43 which discloses staggered times and retransmission interval of fifteen minutes as to be able to retrieve the NVOD program in fifteen minutes by retrieving from a number of digital channels simultaneously).

Regarding claims 44 and 45, the claims have been analyzed and rejected for the same reasons set forth in the rejections of claims 20 and 21. Moreover, Sie discloses a means for selecting and a means for receiving (See col.7 lines 1-45 and col. 14 lines 9-40 which discloses a remote control for selecting the channel and a set-top box/tuner for receiving and decoding the channels for NVOD).

Regarding claims 48 and 50, the claim has been analyzed and rejected for the same reasons set forth in the rejection of claims 20 and 44. Furthermore, Sie teaches of a storage device, for pre-storing a first segment of the selected video program (See col.14 lines 43- col.15 lines 3-10), and for storing subsequent segments of the selected video program in parallel while retrieving the pre-stored first segment of the selected video program (See col.16 lines 13-43 which discloses storing the remaining portions before the user will need it and retrieving the remainder of the NVOD program by retrieving from a number of digital channels simultaneously. Thus, the subsequent segments are stored in parallel while the first segment is being retrieved).

Regarding claim 51, the claim has been analyzed and rejected for the same reasons set forth in claim 21.

Regarding claim 52, Sie teaches of a method of pre-storing a video program to be later provided in response to a user demand (See col.16 lines 43-45 which disclose that the program can be stored for later retrieval), wherein the video program is repeatedly transmitted on one of a plurality of channels (See Figs. 9A and Fig. 10A and col.16 lines 14-43 which discloses storing a repeatedly transmitted program on one of a plurality of channels according to a user command/selection), each repeated transmission temporally separated from a previous transmission by a retransmission interval and being transmitted on a

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different channel than the previous transmission (See Fig.9A and col. 16 lines 28-43), the method comprising the steps of:

receiving and storing a first segment of a selected video program in a local storage device before accepting a user to view the video program (See col.14 lines 43- col.15 lines 3-10 which discloses that the portion pre-stored is stored locally before the program is requested), wherein a temporal length of the first segment is substantially equivalent to the retransmission interval (See col.14 lines 60-65 which discloses having more or less channels with more or less pre-storage relevant to the stagger time); and

wherein portions of the first segment are received and stored on the plurality of channels in parallel (See col.16 lines 35-47) which discloses of retrieving the entire NVOD program from a number of digital channels simultaneously such that if the start times were staggered by fifteen minutes, it would only take fifteen minutes to retrieve the remainder of the NVOD program. Furthermore, it is stated that the program can be stored for later retrieval, thus the first segment that is pre-stored may be construed as the entire program stored for later retrieval by the plurality of channels in parallel since the time of retransmission interval is not stated. Hence, the portions and time segments of the first segment (the entire selected video program) is received and stored on the plurality of channels in parallel as described in the analysis of claims 20 and 44.

Claim Rejections - 35 USC § 103

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 22 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sie et al., US 7,240,359 in further view of Reynolds et al., US 6,934,963.

Regarding claims 22 and 46, Sie teaches all of the claim limitations of claims 20 and 44. Sie further teaches of selecting a second video program for real time reception (See Fig.12B and col.18 lines 38-47 which discloses of a set-top box composing of multiple tuners such that a number of channels may be tuned to for recording). Sie does not explicitly teach of wherein the selected second video program is received in real time while receiving the plurality of time segments of the selected at least one of a plurality of video programs in parallel.

However, in the same field in endeavor, Reynolds teaches a system for simultaneous watch and record of programs from multiple channels (See col. 20 lines 40-43) which would meet the limitation of selecting and receiving a second program. Therefore, it would have been obvious of one of ordinary skill in the art to have modified the teachings of Sie with that of Reynolds for the benefit of the viewer being able to watch other programs that they do not have the option of

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watching in the future and to be able to watch programs while recording simultaneously.

7. Claims 49 and 53-57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sie et al., US 7,240,359 in further view of Okura et al., US 6,487,722.

Regarding claim 49, Sie teaches all of the claim limitations of claim 48. Sie does not explicitly teach of a memory for storing a program guide having an entry for each of the video programs or of a processor coupled to the input device and tuner, and the memory, for scanning the program guide for a VOD service indicator, and for identifying the video program associated with the VOD service indicator as the selected video program.

However, in the same field of endeavor, Okura teaches of an EPG system wherein the EPG is stored in memory (See Fig. 2, 51 which discloses an EPG data memory). The processor 44 is also coupled to the input device 61, tuner 41 and memory 50-53 for scanning a guide for a VOD service indicator and for identifying the video program associated with the VOD service indicator as the selected video program (See col. 10 lines 13-52, which discloses that the CPU judges where the EPG data includes a program flag and reads out the corresponding symbol data which is then outputted to the OSD control section).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Sie to incorporate a

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memory for storing a program guide having an entry for each of the video programs or of a processor coupled to the input device and tuner, and the memory, for scanning the program guide for a VOD service indicator, and for identifying the video program associated with the VOD service indicator as the selected video program as taught by Okura for the benefit of providing viewers quickly and reliably with information that characterizes each program with a more visual convenience.

Regarding claim 53, Sie teaches all of the claim limitations of claim 52. Sie does not explicitly teach of scanning a program guide having an entry for each of the video programs for a VOD service indicator and identifying a video program associated with the VOD service indicator as the selected video program. Okura teaches of an EPG system (see rejection set forth in claim 49), which discloses these features.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Sie to incorporate scanning a program guide having an entry for each of the video programs for a VOD service indicator and identifying a video program associated with the VOD service indicator as the selected video program as taught by Okura for the benefit of providing viewers quickly and reliably with information that characterizes each program with a more visual convenience.

Regarding claim 54, Sie teaches all of the claim limitations of claim 52. Sie does not explicitly teach of accepting a selection of at least one of the video programs for VOD service; and associating the VOD indicator with the entry of each video program selected for VOD service. Okura teaches of an EPG system (see rejection set forth in claim 49), which clearly discloses these features.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Sie to incorporate accepting a selection of at least one of the video programs for VOD service; and associating the VOD indicator with the entry of each video program selected for VOD service as taught by Okura for the benefit of providing viewers quickly and reliably with information that characterizes each program with a more visual convenience.

Regarding claim 55, Sie teaches all of the claim limitations of claim 52. Sie does not explicitly teach of scanning a program guide having an entry for each of the video programs to identify at least one video program scheduled to be repeatedly transmitted on one of the plurality of channels.

However, in the same field of endeavor, Okura teaches of scanning a program guide that discloses this feature (See col. 11 lines 47-53, which discloses that a program flag is transmitted to display the symbol "Last" of NVOD).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the teachings of Sie to incorporate

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scanning a program guide having an entry for each of the video programs to identify at least one video program scheduled to be repeatedly transmitted on one of the plurality of channels as taught by Okura for the benefit of providing viewers quickly and reliably with information that characterizes each program with a more visual convenience.

Regarding claims 56-57, the combination of Sie and Okura teaches all of the claim limitations of claim 55. The combination further teaches of wherein the video program information comprises a title (See Okura, col. 10 lines 65-57, which discloses that it is judged whether titles have been rendered in all the display areas). Okura also teaches of wherein the video program information comprises a unique identifier (See col. 11 lines 24-31, which discloses several different unique identifiers).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory

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action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky Chin whose telephone number is 571-270-3753. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on 571-272-7296. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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